

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING AND CONTRACTS >> ARTICLE I. - GENERAL PROVISIONS >>

ARTICLE I. - GENERAL PROVISIONS

§ 38.01. - Short title.

§ 38.02. - Purpose of the purchasing code.

§ 38.03. - Definitions.

§ 38.01. - Short title.

This chapter may be referred to and cited as *The purchasing code*.

§ 38.02. - Purpose of the purchasing code.

The underlying purposes and policies of this purchasing code are:

- (a) To specify, clarify, and modernize the rules governing procurement by the city;
- (b) To ensure the fair and equitable treatment of all persons who deal with the procurement system of the city;
- (c) To foster effective broad-based competition within the free enterprise system;
- (d) To provide safeguards for the maintenance of a procurement system of quality and integrity; and
- (e) To maximize to the fullest extent possible the purchasing value of the public funds of the city.

§ 38.03. - Definitions.

For the purposes of this purchasing code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Agencies. City offices, departments, boards, bureaus, committees, councils and commissions.

Alien. Any person not a citizen or national of the United States.

Business. Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Competitive sealed bidding. The process whereby the purchasing agent accepts sealed bids after public notice by newspaper advertisement.

Competitive sealed proposal. The process whereby the purchasing agent accepts sealed proposals through request for proposals after adequate public notice.

Construction. The process of building, altering, repairing, improving, or demolishing any structure or building, or other public improvements of any kind to any real property but not including the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

Contract. All types of agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction.

Contract modifications. Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

Contractor. Any person having a contract with the city.

Contractual services. The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance, but not including employment agreements or collective bargaining agreements.

Local bidder. A bidder with a business located in Sangamon County with at least one permanent full-time staff person working at that business location. Such business must have been in continuous operation in Sangamon County for at least one year prior to the date of submission of the bid, and also must be in continuous operation in Sangamon County for the duration of the contract sought.

Person. Any business, individual, union, committee, club, other organization, or group of individuals.

Procurement. Buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction, including all functions that pertain to the obtaining of any supply, service, or construction, such as description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration, construction.

Public works. All fixed works constructed or demolished by any public body, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds, grants, loans, or other funds made available by or through the state or any of its political subdivisions. "Public works" does not include: (1) work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, and (2) projects undertaken by the owner at an owner-occupied single-family residence or at an owner-occupied unit of a multi-family residence.

Public works contracts. Any contracts awarded by the city for public works.

Supplies. All property, including but not limited to equipment, computer equipment, software, utilities, materials, commodities, printing, insurance, telecommunications equipment and services, and leases of real property, excluding land or a permanent interest in land. The work "supplies" includes both capital and operational needs.

Unauthorized alien. With respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by the Immigration and Nationality Act, 8 U.S.C. 1101, et seq., or by the United States Attorney General.

(Ord. No. 1036-12-94, § 1, 12-20-94; Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 457-07-07, § 1, 7-3-07; Ord. No. 574-12-08, § 1, 12-1-09; Ord. No. 354-10-10, § 1, 10-5-10)

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING AND CONTRACTS >> ARTICLE II. - DEPARTMENT OF CENTRAL SERVICES >>

ARTICLE II. - DEPARTMENT OF CENTRAL SERVICES

§ 38.10. - Department of central services.

§ 38.11. - Purchasing agent.

§ 38.12. - Powers and duties.

§ 38.13. - Public works contracts and prevailing wage.

§ 38.14. - Public works contracts and employee benefit insurance.

§ 38.15. - Public works contracts and project labor agreements.

§ 38.10. - Department of central services.

There is hereby established within the office of budget and management a department of central services.

§ 38.11. - Purchasing agent.

The department of central services shall be headed by a purchasing agent appointed by the director of budget and management with the approval of the mayor and the advice and consent of the city council. The purchasing agent shall be exempt from the provision of 65 ILCS 5/10-1-1 et seq. In making the appointment of the purchasing agent, the director of the office of budget and management shall give due consideration to the experience and ability required for the proper and effective discharge of the duties of the office.

(Ord. No. 670-9-95, § 1(Exh. G), 9-19-95)

§ 38.12. - Powers and duties.

- (a) Without limiting those powers and duties prescribed by law and ordinance, the department of central services shall:
- (1) Purchase supplies, services and construction for all agencies of the city.
 - (2) Exercise general supervision and control over all inventories of supplies belonging to the city.
 - (3) Sell, trade, or otherwise dispose of surplus supplies belonging to the city.
 - (4) Establish and maintain programs for the inspection, testing and acceptance of supplies, services and construction.
 - (5) Open all bids submitted to the city.
 - (6) Make recommendations to the city council concerning the awarding of contracts for which bids have been received.
 - (7) Distribute or cause to be distributed to the various requesting agencies of the city such supplies as may be purchased by the department.
 - (8) Transfer supplies to or between the various requesting agencies of the city.
- (b) The purchasing agent shall be empowered to:
- (1) Adopt, promulgate and from time to time revise rules and regulations, consistent with this purchasing code, governing the management, procurement, control and disposal of any and all supplies, services and construction to be procured by the city.

- (2) Adopt, promulgate and from time to time revise rules and regulations for the proper conduct of the department of central services.
- (3) Assume such related activities as may be assigned by the director of the office of budget and management or the city council.
- (4) Submit to the city council an annual report describing the activities of his office.
- (5) Supervise the operation of central stores.

(Ord. No. 670-9-95, § 1(Exh. G), 9-19-95)

§ 38.13. - Public works contracts and prevailing wage.

The purchasing agent shall include in all public works contracts the affirmative requirement that a bidder comply with the Prevailing Wage Act, as amended (820 ILCS 130/1 et seq.).

All contractors and subcontractors on public works projects must submit certified payroll records on a monthly basis to the purchasing agent pursuant to 820 ILCS 130/5 et seq., as amended.

During the performance of or within one week of the conclusion of any public works contract, but in no event more than three times for any one project, the purchasing agent may, upon written request, require the bidder to provide the purchasing agent with such documentation as is reasonably necessary to demonstrate the bidder's compliance with the Prevailing Wage Act. The documentation requested by the purchasing agent may include other information reasonably necessary to show compliance with these sections of the Prevailing Wage Act.

If the information provided by the bidder reasonably shows a violation of the Prevailing Wage Act, then the purchasing agent shall notify the bidder of the possible violation by certified mail. If the bidder does not cure the violation, or provide the purchasing agent with sufficient information demonstrating compliance with the Prevailing Wage Act within five business days of the bidder's receipt of the purchasing agent's written notice of possible violation, then the purchasing agent, after consulting with the office of corporation counsel, shall refer this matter to the Illinois Department of Labor for the purpose of conducting an investigation and hearing to determine whether a violation has occurred.

(Ord. No. 1036-12-94, § 1, 12-20-94; Ord. No. 24-01-06, 1-4-06)

§ 38.14. - Public works contracts and employee benefit insurance.

The purchasing agent shall include in all public works contracts the affirmative requirement that the bidder purchase and maintain insurance, at the bidder's expense, to cover claims for damage of bodily injury and death to bidder's employees brought under:

- (1) Illinois Workers' Compensation Law;
- (2) Disability Benefit Law;
- (3) Occupational Sickness or Disease Laws; or
- (4) Other similar employee benefit laws.

The purchasing agent shall require proof of insurance prior to the work beginning on the project.

(Ord. No. 1036-12-94, § 1, 12-20-94)

§ 38.15. - Public works contracts and project labor agreements.

On substantial and complex public works projects the purchasing agent may, upon making a written determination that the public interest and the city's proprietary interests are served thereby, require that the terms of a project labor agreement be included in the project's specifications. The consideration of such project labor agreements shall be limited to a project-by-project review only and may be utilized only when substantial and complex public works projects justify such a requirement. The terms of any project labor

agreement included in project specifications shall not exceed the economic standards established by the Illinois Prevailing Wage Act, as from time to time amended, nor contain any requirement of union membership of any contractor's employees or fair share payments by contractor's employees.

Project labor agreements shall not be included in contracts for private development between the city and developers involving private business development activities.

(Ord. No. 1036-12-94, § 1, 12-20-94)

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING AND CONTRACTS >> ARTICLE III. - SPECIFICATIONS COMMITTEE >>

ARTICLE III. - SPECIFICATIONS COMMITTEE

§ 38.20. - Committee on standardization and specifications.

§ 38.21. - Officers; meetings.

§ 38.22. - Powers and duties.

§ 38.23. - Requirements for specifications for public works contracts.

§ 38.20. - Committee on standardization and specifications.

- (a) There is hereby established a committee on standardization and specifications which may be referred to as the "specifications committee."
- (b) The specifications committee shall be composed of the purchasing agent, the director of the office of public works or his authorized representative, the director of the office of budget and management or his authorized representative, the general manager of the office of public utilities or his authorized representative, the director of the office of planning and economic development or his authorized representative and the manager of the office of community relations or his authorized representative.

(Ord. No. 431-6-93, § 1, 6-1-93; Ord. No. 670-9-95, § 1(Exh. G), 9-19-95; Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 585-10-03, § 1(Exh. 1), 10-21-03)

§ 38.21. - Officers; meetings.

The purchasing agent shall be the chairman of the specifications committee. The city clerk or the clerk's authorized representative shall serve as secretary and keep a record of all resolutions, proceedings, and actions of the committee, which record shall be given to each committee member and be made available to the city council five working days after the meeting to which it pertains. Four members of the committee shall constitute a quorum for the transaction of its business. A majority vote of all of the committee members shall constitute approval of business before it. Regular meetings of the committee shall be held at least once each week. Special meetings may be called by the chairman or by no less than three members of the committee. Any person or his duly authorized representative shall be entitled to appear and be heard on any matter before the committee reaches a decision.

§ 38.22. - Powers and duties.

The specifications committee shall have the authority to:

- (a) Prepare standardized written specifications.
- (b) Review specifications submitted by the various agencies of the city utilizing the standard written specifications to the greatest extent possible.
- (c) Approve specifications and authorize advertisements for bids.
- (d) Adopt rules of procedure for the committee.

§ 38.23. - Requirements for specifications for public works contracts.

- (a)

The specifications committee shall include in all specifications for public works contracts a requirement that any person, firm, corporation, or other entity submitting a bid for a public works contract include in such bid:

- (1) A complete, accurate, and truthful listing and description of all citations, complaints, summons, decisions, determinations, judgments, or other allegations or findings relating to any violation of state or federal laws, which protect the health, safety, or welfare of workers, including but not limited to the Occupational Health and Safety Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the National Labor Relations Act, the Federal Civil Rights Act, the Illinois Human Rights Act, the Illinois Wage and Hour Law, and the Prevailing Wage Act, filed against it or any entity with whom it is submitting the bid, including joint ventures and partners, and also including parent and subsidiary corporations or entities; and
 - (2) A statement that such bidder, and each subcontractor performing work under the public works contract for which such bid is submitted, if any, is a participant in applicable apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.
- (b) Any bidder who willfully fails or refuses to include the information required in subsection (a) of this section, or whose report of such information is substantially incomplete, inaccurate, or untruthful, shall be disqualified and its bid shall be rejected.

(Ord. No. 55-02-05, § 1, 2-1-05; Ord. No. 251-05-07, § 1, 5-15-07; Ord. No. 339-06-09, § 1, 6-16-09)

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING AND CONTRACTS >> ARTICLE IV. - SOURCE SELECTION AND CONTRACT FORMATION >>

ARTICLE IV. - SOURCE SELECTION AND CONTRACT FORMATION

- § 38.30. - Methods of source selection.
- § 38.31. - Sealed competitive bidding.
- § 38.32. - Advertisement for bids; deposits.
- § 38.33. - Opening of bids.
- § 38.34. - Awarding of contracts; filing of purchase order or contract; public inspection.
- § 38.35. - Responsibility of bidders; determination.
- § 38.36. - Rejections of bids.
- § 38.36.1. - Bid; waiver of defects.
- § 38.36.2. - Bid; clarification.
- § 38.37. - Performance bonds of bidders.
- § 38.38. - Competitive sealed proposals.
- § 38.39. - Small purchases.
- § 38.40. - Sole source procurement.
- § 38.41. - Emergency contracts.
- § 38.42. - Professional services.
- § 38.43. - Assignment of contracts.
- § 38.44. - Modification of contracts.
- § 38.44.1. - Purchases when competitive bidding is not reasonable.
- § 38.45. - Local preference in contract award.
- § 38.46. - Debarment or suspension.
- § 38.47. - Prohibited contracts and bids.
- § 38.48. - Unauthorized charges against city contracts.

§ 38.30. - Methods of source selection.

All city contracts involving amounts in excess of \$15,000 shall be awarded by competitive sealed bidding, pursuant to section 38.31, except as provided in sections 38.38, 38.39, 38.40, 38.41 and 38.42.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.31. - Sealed competitive bidding.

City contracts shall be let by sealed competitive bidding after advertisement, to the lowest responsible bidder, or to the highest responsible bidder depending upon whether the city is to expend or to receive money.

§ 38.32. - Advertisement for bids; deposits.

All proposals to award contracts involving amounts in excess of \$15,000 shall be published at least ten days, excluding Sundays and legal holidays, in advance of the date announced for the receiving of bids, in a secular English language daily newspaper of general circulation throughout the city and shall simultaneously be posted on readily accessible bulletin boards in the office of the purchasing agent. Nothing contained in this section shall be construed to prohibit the purchasing agent from placing additional announcements in recognized trade journals. Advertisements for bids shall describe the character of the

proposed contract or agreement in sufficient detail to enable the bidders thereon to know what their obligations will be, either in the advertisement itself, or by reference to detailed plans and specifications on file at the time of the publication of the first announcement. Such advertisements shall also state the date, time and place assigned for the opening of bids and no bids shall be received at any time subsequent to the time indicated in the announcement. However, an extension of time may be granted for the opening of such bids upon publication in a secular English language daily newspaper of general circulation throughout the city of the date to which the bid opening has been extended. The time of the bid extension opening shall not be less than five days after the publication thereof, Sundays and legal holidays excluded.

A cashier's check, a certified check or a bid bond, as a deposit of good faith, in a reasonable amount but not in excess of 10% of the contract amount may be required of each bidder by the purchasing agent in all bids involving amounts in excess of \$15,000 and, if so required, the advertisement for bids shall so specify.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.33. - Opening of bids.

All sealed bids must be publicly opened by the purchasing agent of the city, or by an officer or employee in the office of the purchasing agent duly authorized in writing by the purchasing agent to open such bids, and all such bids shall be open to public inspection.

(Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.34. - Awarding of contracts; filing of purchase order or contract; public inspection.

The award of any contract let by sealed competitive bidding shall be made to the lowest responsible bidder or the highest responsible bidder as provided in section 38.31. Each bid, with the name of the bidder, shall be entered on a record which record, with the name of the successful bidder indicated thereon, shall, after award of the contract, be open to public inspection in the office of the purchasing agent. An official copy of each awarded contract together with all necessary attachments, including assignments, shall be retained by the purchasing agent in an appropriate file open to public inspection. The city council shall award all such contracts in excess of \$100,000.00. The director of the office of budget and management may award contracts for \$100,000 or less.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.35. - Responsibility of bidders; determination.

- (a) The director of the office of budget and management is empowered to award and execute contracts on behalf of the city within the purview of this article which are for \$100,000 or less, with the exception of professional services contracts determined by the purchasing agent to be exempt from sealed competitive bidding pursuant to section 38.42 of this article. The director of the office of budget and management is empowered to award and execute professional services contracts for \$25,000 or less. Professional services contracts in excess of \$25,000 shall be awarded by the city council. The corporation counsel is empowered to approve the settlement of claims which are for \$15,000 or less. The city council shall award all other contracts in excess of \$100,000 and approve the settlement of claims in excess of \$15,000.
- (b) Contracts subject to bidding requirements shall be awarded to the lowest responsible bidder as determined at the sole discretion of the city council. In determining the lowest responsible bidder, the city council may consider the following as well as other criteria:
 - (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - (2)

- The capacity of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder including but not limited to past performance record; default under previous contracts, whether or not such contract was with the city; competency; and failure to pay or satisfactorily settle all bills due for labor and material on former contracts;
 - (4) The quality of performance of previous contracts or services;
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - (6) The sufficiency of the financial resources and financial ability of the bidder to perform the contract or service;
 - (7) The quality, availability and adaptability of the supplies, machinery, plant or other equipment or contractual services to the particular use required;
 - (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, including guarantees;
 - (9) Whether the bidder is entitled to local preference as set forth in this chapter;
 - (10) Whether there has been a finding, determination, or judgment by an agency of the state or federal government charged with the responsibility of enforcing laws and regulations which protect the health, safety, or welfare of workers, as set forth in section 38.23 of this Code, or otherwise, that the bidder has violated such statutes or regulations, and that such violation was (i) found to have been part of a pattern of similar violations, (ii) one of three or more similar violations committed within the two years immediately preceding the submission of the bid, (iii) classified by an agency of the state or federal government as serious, (iv) one which threatened the health or safety of the workers employed by the bidder, (v) one resulting in the payment of back wages and benefits of \$5,000 or more, or (vi) one that resulted or could have resulted in the debarment of the bidder from contracting with the state or federal government, or any agency thereof.

A bidder who has been found by the Illinois Department of Labor to be in violation of the Prevailing Wage Act shall be deemed not to be a responsible bidder for two years from the date of the finding.

- (c) When the award is not recommended to be given to the lowest bidder, a statement of the reasons for such award recommendation shall be prepared by the purchasing agent.
- (d) When two or more responsible bidders submit the same low bid, the contract award shall be determined by drawing lots in public at a meeting of the city council; unless one bidder is a local bidder and one is a nonlocal bidder, in which event the local bidder shall be awarded the contract.

(Ord. No. 824-10-92, § 1(Exh. A), 12-17-96; Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 721-12-03, § 1, 12-16-03; Ord. No. 55-02-05, § 2, 2-1-05; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.36. - Rejections of bids.

Any and all bids received in response to an advertisement may be rejected by the mayor.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.36.1. - Bid; waiver of defects.

In awarding a contract pursuant to sealed competitive bidding, the city council may waive any variation from the bid requirements or defect in a bid which does not materially affect the competitive nature of the bid, is not in violation of any ordinance, statute or law and does not prejudice the right of the public.

A variance or defect does not materially affect the bid if the terms of the bid are clear and unambiguous, the bid contains all essential elements of the contract, if the amount or competitive nature of

the bid is not affected and if the bidder has not received an unfair advantage from having seen the competitor's bid documents.

In considering any waiver, the city purchasing agent shall attempt to secure the best work or materials at the lowest price practicable and shall make such determination in a manner as to fairly and reasonably accomplish such purpose with sole reference to the public interest.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.36.2. - Bid; clarification.

The city purchasing agent may request clarification of a bid or any part thereof. Clarification shall mean the communication between the city and the bidder regarding the bid. Such communication shall not change the bid, the competitive nature of all bids or violate any ordinance, statute or law.

In considering any clarification the city purchasing agent shall attempt to procure the best supply, service or construction at the lowest practicable price and shall make such clarifications in such a manner as to fairly and reasonably accomplish such purpose with the sole reference to the promotion of public interest.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.37. - Performance bonds of bidders.

Bond, with sufficient sureties, in such amount as shall be deemed adequate, not only to insure performance of contract in the time and manner prescribed in the contract, but also to save, indemnify, and keep harmless the city against all loss, damages, claims, liabilities, judgments, costs, and expenses which may in anywise accrue against the city in consequence of the granting of the contract, or which may in anywise result therefrom, may be required of each bidder upon contracts involving accounts in excess of \$15,000 when, in the opinion of the purchasing agent, the public interest will be served thereby.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.38. - Competitive sealed proposals.

- (a) If the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city in a particular instance, a contract may be entered into by competitive sealed proposals. The purchasing agent may also provide by regulation that it is either not practicable or not advantageous to the city to procure specified types of supplies, services or construction by competitive sealed bidding.
- (b) In the event a contract is to be entered into pursuant to paragraph (a) of this section, the following shall apply:
 - (1) Proposals shall be solicited through a request for proposals.
 - (2) Adequate public notice of the request for proposals shall be given in accordance with the rules and regulations promulgated by the purchasing agent.
 - (3) The request for proposals shall state the relative importance of price and other evaluation factors.
 - (4) Proposals shall be opened in a manner so as to avoid disclosure of contents thereof to competing offerors during the process of negotiations.
 - (5) The award of any contract pursuant to a competitive sealed proposal in excess of \$100,000 shall be made by the city council.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.39. - Small purchases.

Any procurement not exceeding \$15,000 shall be made in accordance with small purchase procedures delineated in the rules and regulations adopted by the purchasing agent, provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.40. - Sole source procurement.

A contract may be awarded for a supply, service or construction item without competition when, under regulations promulgated by the purchasing agent, the purchasing agent determines in writing that there is only one source for the required supply, service, or construction item. Sole source contracts in excess of \$100,000 shall be awarded by the city council. Sole source contracts in excess of \$15,000 but \$100,000 or less may be awarded by the director of the office of budget and management.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.41. - Emergency contracts.

Purchases where an emergency immediately affects the public health, safety or welfare may be made without regard to the requirements of this chapter if authorized by the mayor; provided, however, that the mayor shall declare the emergency in writing setting out the nature of the emergency. The mayor or his designee shall inform the city council, city clerk and city treasurer, in writing, of contracts entered into or purchases made pursuant to this section.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 113-03-06, § 1, 3-7-06)

§ 38.42. - Professional services.

Contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important role shall not be subject to sealed competitive bidding. Professional services contracts shall be awarded pursuant to provisions found in section 38.35(a) of this article.

(Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.43. - Assignment of contracts.

No contract shall be assignable or sublet by the successful bidder without the consent of the city council.

§ 38.44. - Modification of contracts.

- (a) Contract modifications involving the expenditure of 10% or less of an original contract amount previously approved by the city council may be approved by the director of the office of budget and management provided the modifications are otherwise in compliance with all applicable laws.
- (b) All other contract modifications involving the expenditure of funds shall be approved by the city council unless the total expenditure under the contract, as modified, is \$100,000 or less, in which case the modifications may be approved by the director of the office of budget and management provided the modifications are otherwise in compliance with all applicable laws.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 386-07-09, § 1, 7-7-09)

§ 38.44.1. - Purchases when competitive bidding is not reasonable.

A contract may be awarded pertaining to firefighting apparatus, including engines, towers and quints, without sealed competitive bidding or sealed competitive proposals when the purchasing agent determines in writing that although there exists more than one responsible source, a competitive process cannot reasonably be used or if used will result in substantially higher cost to the city, will otherwise injure the city's financial interest, or will substantially impede the city's administrative functions.

(Ord. No. 503-9-01, § 1, 9-18-01)

§ 38.45. - Local preference in contract award.

For purchases in excess of \$15,000, (1) if the lowest bidding local vendor is a responsible bidder and (2) the lower responsible bidders are not local vendors and (3) if the lowest bidding local vendor's bid is higher than the nonlocal vendor by no more than 2%, then that local vendor should be considered the lowest responsible bidder. This provision shall not be applied to a contract if the funding source prohibits it through law, rule or regulation.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 130-03-04, § 1, 3-2-04)

§ 38.46. - Debarment or suspension.

The mayor is authorized to debar or suspend a vendor or contractor for just cause. No vendor or contractor shall be debarred or suspended until an opinion regarding the same has been obtained from the corporation counsel and until procedures recommended by the corporation counsel have been followed. The period of debarment shall be determined by the mayor on a case by case basis, but shall not exceed three years. Reasons for debarment or suspension include without limitation the following:

- (a) Commission of fraud or a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such a contract or subcontract;
- (b) Conviction or indictment under a state or federal statute of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;
- (c) Conviction or indictment under a state or federal antitrust statute;
- (d) Failure or default without good cause to perform in accordance with the terms of any contract or unsatisfactory performance of any contract;
- (e) Disqualification or rejection of a bid by the vendor on three or more occasions within a three-year period; or
- (f) Debarment, disqualification or suspension by another government entity for any reason.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 55-02-05, § 3, 2-1-05)

§ 38.47. - Prohibited contracts and bids.

- (a) No contract shall be let or bid accepted without prior approval of the council, nor shall any person or entity contracting with the city, without prior approval of the council, subcontract, assign or sublet any contract for services or materials for the city with any person or entity that:
 - (1) Is delinquent more than 60 days in paying any indebtedness owed to the city in any sum in excess of \$100;
 - (2) Is in violation of any of the ordinances of the city and has so continued in the violation for more than 30 days after notice to abate has been serviced; or
 - (3) Is delinquent more than 30 days in the payment of any tax, fee or fine which accrues to the city.
 - (4)

Hires an alien knowing the alien is an unauthorized alien with respect to such employment or continues to employ the alien knowing the alien is or has become an unauthorized alien with respect to such employment. For purposes of this subsection, a person or other entity who uses a contract, subcontract, or exchange to obtain the labor of an alien knowing that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment.

- (b) Any contract let or any bid accepted in violation of this section is void.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 457-07-07, § 1, 7-3-07)

§ 38.48. - Unauthorized charges against city contracts.

- (a) Any contract, with the exception of professional services contracts, for \$100,000 or less entered into by the city shall include a provision that shall read substantially as follows:

"This contract does not authorize an expenditure of city funds in excess of \$100,000 without the prior approval of the city council. The contractor agrees and acknowledges that absent such prior approval, it proceeds at its own risk with no guarantee of payment if the amount billed to the city exceeds \$100,000."

- (b) Professional services contracts for \$25,000 or less entered into by the city shall include a provision that shall read substantially as follows:

"This contract does not authorize an expenditure of city funds in excess of \$25,000 without the prior approval of the city council. The contractor agrees and acknowledges that absent such prior approval, it proceeds at its own risk with no guarantee of payment if the amount billed to the city exceeds \$25,000."

- (c) Any contract requiring city council approval shall include a provision that shall read substantially as follows:

"This contract does not authorize an expenditure of city funds in excess of the amount authorized by the city council unless the city council specifically approves an additional expenditure. The contractor agrees and acknowledges that absent such prior approval it proceeds at its own risk with no guarantee of payment if the amount billed to the city exceeds the amount authorized by the city council."

(Ord. No. 651-11-03, § 1, 11-19-03; Ord. No. 19-01-04, § 1, 1-6-04; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING
AND CONTRACTS >> ARTICLE V. - JOINT PURCHASING >>

ARTICLE V. - JOINT PURCHASING

§ 38.50. - Joint purchasing.

§ 38.50. - Joint purchasing.

The department of central services is authorized to purchase supplies in cooperation with:

- (1) The State of Illinois pursuant to "An Act authorizing certain governmental units to purchase personal property, supplies and services jointly" (30 ILCS 525/1 et seq.) as now or hereafter amended.
- (2) The Federal government pursuant to the Federal Property and Administrative Services Act of 1949, as amended, when authorized by the U.S. General Services Administration in accordance with its rules and regulations.

(Ord. No. 616-11-99, § 1, 11-16-99)

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING AND CONTRACTS >> ARTICLE VI. - CONFLICT OF INTEREST >>

ARTICLE VI. - CONFLICT OF INTEREST

§ 38.60. - Pecuniary interest in contracts.

§ 38.61. - Reserved.

§ 38.60. - Pecuniary interest in contracts.

- (a) Except as authorized by law, no city officer shall be interested, directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in any contract, work or business of the city, or in the sale of any article, whenever the expense, price or consideration of the contract, work, business, or sale is paid either from the treasury or by any assessment levied by any statute or ordinance.
- (b) Except as authorized by law, no city officer shall be interested, directly or indirectly, in the purchase of any property which:
 - (1) Belongs to the city; or
 - (2) Is sold for taxes or assessments; or
 - (3) Is sold by virtue of legal process at the suit of the city.
- (c) Nothing in this section shall prohibit an employee from being interested, directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in an agreement with the city for the development, re-development, rehabilitation, repair, and the like, of property located in Springfield, Illinois, if such agreement is found by the city council to be in the best interests of the city. However, the city shall be precluded from entering into such agreements with employees involved in the planning, preparation, processing, approval, implementation or oversight of the subject matter of the agreement. For purposes of this section, the terms "employee" and "employees" shall exclude officers, directors, and members of the corporate authorities.
- (d) Any ordinance drafted pursuant to section (c) above must specify the employee's position with the city, the nature of the agreement sought, and indicate in the title that the contractor is a city employee. Said ordinance shall be placed on the city council's debate agenda for consideration.

(Ord. No. 107-02-06, § 1, 2-21-06)

§ 38.61. - Reserved.

Editor's note—

Ord. No. 450-08-03, § 1, adopted Aug. 5, 2003, deleted § 38.61, Gifts. Such section bore no history note.

Springfield, Illinois, Code of Ordinances >> TITLE III: - ADMINISTRATION >> CHAPTER 38. - PURCHASING AND CONTRACTS >> ARTICLE VII. - MINORITY AND FEMALE OWNED BUSINESSES >>

ARTICLE VII. - MINORITY AND FEMALE OWNED BUSINESSES

§ 38.62. - Policy.

§ 38.62. - Policy.

It is the policy of the City of Springfield to promote and encourage the continuing economic development of minority and female owned and operated businesses and that minority and female owned and operated businesses participate in the city's procurement process as both prime and subcontractors.

- (a) Definitions. For the purpose of this section, the following terms shall have the following definitions:

- (1) *Minority person* shall mean a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. *Black*. A person having origins in any of the black racial groups in Africa;
 - b. *Hispanic*. A person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. *Asian American*. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands;
 - d. *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North America; or
 - e. *Disabled*. "Disabled" means a severe physical or mental disability that:
 1. Results from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, or end state renal failure disease; and
 2. Substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed above.

- (2) *Female* shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.
- (3) *Minority owned business* means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.
- (4) *Female owned business* means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in

which is owned by one or more females; and the management and daily business operation of which are controlled by one or more of the females who own it.

- (5) *City contracts* shall mean all city procurement and construction contracts funded exclusively by city funds which are not subject to state or federal reimbursement.
 - (6) *Control* means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.
- (b) Annual goal. Not less than 12% of the total dollar amount of city contracts shall be established as a goal to be awarded to minority and female owned businesses.
- The above percentage relates to the total dollar amount of city contracts during each fiscal year.
- (c) Program administration.
- (1) The department of community relations (DCR) shall be charged with overall responsibility for the administration of the city's minority and women's business enterprise participation policy. DCR will establish procedures for all city agencies for the purpose of monitoring the city's overall performance with respect to minority and women's business enterprise participation. The duties and responsibilities of DCR shall include:
 - a. Adopting rules and regulations to effectuate this section;
 - b. Developing and distributing a directory of certified minority business enterprises (MBE's) and female business enterprises (FBE's);
 - c. Providing information and needed assistance to MBE's and FBE's to increase their ability to compete effectively for the award of city contracts;
 - d. Investigating alleged violations of this section and making written recommendations for remedial action when appropriate;
 - e. Developing and distributing all necessary forms, applications, and documents necessary to comply with this section;
 - f. Reviewing, on a regular basis, the progress of each city agency toward achieving the goals for the utilization of minority and women's business enterprises and reporting annually on such progress to the mayor and the city council, together with recommendations as to such further remedial action that should be taken, if any;
 - g. Making recommendations to appropriate city officials regarding methods to further the policies and goals of this section;
 - h. Monitoring contractors throughout the duration of the contract to ensure that all efforts are made to comply with the requirements of this section; and
 - i. Certifying that the requirements of this section have been satisfied before the contracts are signed.
 - (2) It shall be the responsibility of the purchasing agent to ensure that bids or proposals adhere to the procedures and provisions set forth in this section.
 - (3)

The purchasing agent shall take the following actions to ensure that MBE's and FBE's have maximum opportunity to participate on city contracts for which bids or proposals are solicited:

- a. A written notification shall be sent to such minority and women's trade and professional associations and contractors' associations as are designated by DCR about the availability of contracting opportunities on an annual basis;
 - b. All contract solicitations shall include the MBE/FBE policy;
 - c. All contracting opportunities shall be evaluated in an effort to divide the total requirements of a contract to provide reasonable opportunities for minority and female business enterprises;
 - d. Guidelines shall be established to ensure that a notice to proceed or purchase order is not issued until signed letters of intent or executed agreements with the MBE's and FBE's proposed by contractors have been submitted;
 - e. Actions shall be taken to ensure that all required statistics and documentation are submitted to DCR as requested;
 - f. The contracting agency shall make quarterly reports to DCR concerning the agency's progress in achieving the goals established by this section.
- (4) It shall be the responsibility of each bidder and proposer to adhere to the procedures and provisions set forth in this section.
- a. Each bidder and proposer must complete an MBE and FBE utilization form and identify therein its commitment, if any, to utilize MBE's and FBE's. Any failure to complete and sign the MBE and FBE utilization form may result in the bid or proposal being declared nonresponsive. In its response to an invitation to bid or request for proposal, the bidder or proposer shall include the names of minority and female business enterprises to whom it intends to award subcontracts, if any, the dollar value of the subcontracts, and the scope of work to be performed;
 - b. It is the bidder's or proposer's responsibility to ensure that all MBE's and FBE's projected for use have been certified by the city prior to bid opening;
 - c. The awardee of a contract must submit copies of executed agreements with the MBE's and FBE's being utilized; and
 - d. The awardee of a contract must submit reports and documentation as required by DCR, verifying payments to the MBE's and FBE's being utilized.
- (5) Contractors and subcontractors shall consider, and follow where appropriate, the following guidelines in making their good faith efforts to meet the goals of this section. These guidelines are not all inclusive.
- a. Attend pre-bid meetings scheduled by the city to inform MBE/FBE firms of contracting and subcontracting opportunities;
 - b. Formally advertise in general circulation, trade association and minority-oriented media regarding subcontracting opportunities;
 - c. Provide written notice to specific MBE/FBE firms soliciting their bids. Said solicitations should allow sufficient time for the MBE/FBE firms to review the plans and specifications and develop bids.
 - d. Follow up to the initial solicitation of interest by contacting MBE/FBE firms to determine whether or not said firms will submit a bid;
 - e. Package portions of the work to be performed in such a manner as to encourage and increase the likelihood of participation from MBE/FBE firms;
 - f. Provide interested MBE/FBE firms with adequate information regarding the plans, specifications and requirements for bidding on city financed construction;

- g. Negotiate in "good faith" with MBE/FBE firms. MBE/FBE firms shall not be disqualified without sound reasons based upon a thorough investigation of their capabilities;
- h. Assist interested MBE/FBE firms in obtaining the bonding, lines of credit and insurance if required;
- i. Effectively utilize the services of local, state and federal minority and women business assistance offices, and other organizations that provide assistance in the recruitment and placement of MBE/FBE firms; and
- j. Document all "good faith efforts" actions taken.

(Ord. No. 777-09-92, § 1, 9-15-92; Ord. No. 670-9-95, § 1(Exh. G), 9-19-95)